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Paper No. 11

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In re Patent No. 6,385,814  
Issue Date: May 14, 2002  
Application No. 09/440,879  
Filed: November 16, 1999  
Attorney Docket No. 99.00076

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed March, 9, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued May 14, 2002. The second (7 1/2 year) maintenance fee was due November 14, 2009 and could have been paid from May 14, 2009 through November 14, 2009, or with a surcharge during the period from November 15, 2009 through May 14, 2010. Accordingly, the patent expired at midnight May 15, 2010, for failure to timely submit the first maintenance fee.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

37 CFR 1.378 (d) states that any petition under this section must be signed by an attorney or agent registered to practice before the U.S. Patent and Trademark Office, or by the patentee, the assignee, or other party of interest. The petition was signed by Richard B. Karl who is identified as the assignee. However this signature is not acceptable as it is not in compliance with 37 CFR 3.73(b).

Petitioner was mistakenly charged large entity maintenance fees. The difference has been refunded to petitioner's deposit account.


Further correspondence with respect to this matter should be addressed as follows:

By Mail:                    Mail Stop PETITION  
                                 Commissioner for Patents  
                                 Post Office Box 1450  
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By hand:                    U. S. Patent and Trademark Office  
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The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to Carl Friedman at (571)272-6842.

  
Carl Friedman  
Petitions Examiner  
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